

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SCOTT EUNGARD,

Plaintiff,

Case No. 05-60272

v.

Hon. John Corbett O'Meara

OPEN SOLUTIONS, INC.,

Defendant.

**ORDER GRANTING IN PART AND DENYING
IN PART DEFENDANT'S MOTION FOR
PROCEEDINGS SUPPLEMENTAL TO JUDGMENT**

Before the court is Defendant's motion for proceedings supplemental to the judgment, which has been fully briefed. In this sales commissions dispute, a jury rendered a verdict in favor of Defendant. The judgment was entered January 29, 2009. Plaintiff filed a notice of appeal on February 23, 2009. Defendant, as the prevailing party, filed a motion for attorney fees, which was granted on April 28, 2009. The court entered judgment on the award of attorney fees in the amount of \$125,313.08 on June 9, 2009. Plaintiff sought a stay of execution of the judgment without bond from the Court of Appeals of the Sixth Circuit. On November 3, 2009, the appeals court denied the stay, noting that this court should decide the issue in the first instance.¹

Pursuant to Fed. R. Civ. P. 69 and M.C.L. 600.6104, Defendant seeks an order (1) preventing the transfer, disposition, or alienation of Plaintiff's non-exempt assets until further order of the court; and (2) requiring Plaintiff's appearance at a creditor's examination. The court

¹ Plaintiff has not filed a motion for stay in this court.

will grant Defendant's request for a creditor's examination. At this time, however, Defendant has not provided facts suggesting that Plaintiff intends or is attempting to put his assets out of reach. Accordingly, the court will deny without prejudice Plaintiff's motion for an order prohibiting the transfer or disposition of property.

SO ORDERED.

s/John Corbett O'Meara
United States District Judge

Date: January 12, 2010

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, January 12, 2010, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager